

Senate File 380 - Introduced

SENATE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1253)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the practices and procedures of the department
2 of public safety including school inspections, gaming floor or
3 wagering area restrictions, interception of communications,
4 and peace officers acting with federal agents, and providing
5 penalties.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1333SV 83
8 jm/nh/14

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1 1 DIVISION I
1 2 SCHOOL FIRE INSPECTIONS
1 3 Section 1. Section 100.31, Code 2009, is amended to read
1 4 as follows:
1 5 100.31 FIRE AND TORNADO DRILLS ~~IN PUBLIC~~ == WARNING
1 6 SYSTEMS == INSPECTION OF SCHOOLS.
1 7 1. It shall be the duty of the state fire marshal and the
1 8 fire marshal's designated subordinates to require all private
1 9 and public school officials and teachers to conduct not less
1 10 than four fire drills and not less than four tornado drills in
1 11 all school buildings during each school year when school is in
1 12 session; and to require the officials and teachers of all
1 13 schools to keep all doors and exits of their respective rooms
1 14 and buildings unlocked when occupied during school hours or
1 15 when such areas are being used by the public at other times.
1 16 Not less than two drills of each type shall be conducted
1 17 between July 1 and December 31 of each year and not less than
1 18 two drills of each type shall be conducted between January 1
1 19 and June 30 of each year.
1 20 2. Every school building with two or more classrooms shall
1 21 have a warning system for fires of a type approved by the
1 22 underwriters' laboratories and by the state fire marshal. The
1 23 warning system shall be used only for fire drills or as a
1 24 warning for emergency. Schools may modify the fire warning
1 25 system for use as a tornado warning system or shall install a
1 26 separate tornado warning system. Every school building shall
1 27 also be equipped with portable fire extinguishers, with the
1 28 type, size and number in accordance with national fire
1 29 protection association standards and approved by the state
1 30 fire marshal.
1 31 3. The state fire marshal or the fire marshal's deputies
1 32 shall cause each public or private school, college, or
1 33 university to be inspected at least once every ~~two~~ four years
1 34 to determine whether each school meets the fire safety
1 35 standards of this Code and is free from other fire hazards.
2 1 Provided, however, that cities which employ fire department
2 2 inspectors shall cause such inspections to be made.
2 3 4. Each public or private school, college, or university
2 4 shall, at least once each calendar year, cause a basic fire
2 5 safety review to be performed for each building that is
2 6 occupied or utilized by students and is owned, leased, or
2 7 otherwise under the control of the school, college, or
2 8 university. The basic fire safety review shall be performed
2 9 by an employee or a designee acting on behalf of the school,
2 10 college, or university using a basic fire safety checklist.
2 11 Guidance relating to the checklist shall be provided by or
2 12 approved by the state fire marshal. Each school, college, or
2 13 university may seek assistance in performing the basic fire

2 14 safety review from a local fire marshal, fire inspector, or
2 15 fire fighter. Records documenting the basic fire safety
2 16 review and the completion of such a review shall be retained
2 17 for not less than five years from the date of the completion
2 18 of the review. The records shall be considered a public
2 19 record pursuant to chapter 22.

2 20 DIVISION II

2 21 LEGAL AGE VIOLATIONS AT GAMING FACILITIES

2 22 Sec. 2. Section 99D.11, subsection 7, Code 2009, is
2 23 amended to read as follows:

2 24 7. A person under the age of twenty-one years shall not
2 25 make or attempt to make a pari-mutuel wager. A person who
2 26 violates this subsection commits a scheduled violation under
2 27 section 805.8C, subsection 5, paragraph "a".

2 28 Sec. 3. Section 99F.9, subsection 5, Code 2009, is amended
2 29 to read as follows:

2 30 5. A person under the age of twenty-one years shall not
2 31 make or attempt to make a wager on an excursion gambling boat,
2 32 gambling structure, or in a racetrack enclosure and shall not
2 33 be allowed on the gaming floor of an excursion gambling boat
2 34 or gambling structure or in the wagering area, as defined in
2 35 section 99D.2, or on the gaming floor of a racetrack

3 1 enclosure. However, a person eighteen years of age or older
3 2 may be employed to work on the gaming floor of an excursion
3 3 gambling boat or gambling structure or in the wagering area or
3 4 on the gaming floor of a racetrack enclosure. A person who
3 5 violates this subsection with respect to making or attempting
3 6 to make a wager commits a scheduled violation under section
3 7 805.8C, subsection 5, paragraph "a".

3 8 Sec. 4. Section 99F.9, Code 2009, is amended by adding the
3 9 following new subsection:

3 10 NEW SUBSECTION. 5A. a. A person under the age of
3 11 twenty-one years shall not enter or attempt to enter the
3 12 gaming floor or wagering area, as defined in section 99D.2, of
3 13 a facility licensed under this chapter to operate gambling
3 14 games.

3 15 b. A person under the age of twenty-one years does not
3 16 violate this subsection if any of the following circumstances
3 17 apply:

3 18 (1) The person is employed to work at the facility.

3 19 (2) The person is an employee or agent of the commission,
3 20 the division, a distributor, or a manufacturer, and acting
3 21 within the scope of the person's employment.

3 22 (3) The person is present in a racetrack enclosure and
3 23 does not enter or attempt to enter the gaming floor or
3 24 wagering area of the facility.

3 25 c. A person who violates this subsection commits a simple
3 26 misdemeanor punishable as a scheduled violation under section
3 27 805.8C, subsection 5, paragraph "b".

3 28 Sec. 5. Section 725.19, subsection 1, Code 2009, is
3 29 amended to read as follows:

3 30 1. Any person under the age of twenty-one years shall not
3 31 make or attempt to make a gambling wager, except as permitted
3 32 under chapter 99B. A person who violates this subsection
3 33 commits a scheduled violation under section 805.8C, subsection
3 34 5, paragraph "a".

3 35 Sec. 6. Section 805.8C, subsection 5, Code 2009, is
4 1 amended to read as follows:

4 2 5. GAMBLING VIOLATIONS.

4 3 a. For violations of legal age for gambling wagering under
4 4 section 99D.11, subsection 7, section 99F.9, subsection 5, and
4 5 section 725.19, subsection 1, the scheduled fine is five
4 6 hundred dollars. Failure to pay the fine by a person under
4 7 the age of eighteen shall not result in the person being
4 8 detained in a secure facility.

4 9 b. For legal age violations for entering or attempting to
4 10 enter a facility under section 99F.9, subsection 5A, the
4 11 scheduled fine is five hundred dollars. Failure to pay the
4 12 fine by a person under the age of eighteen shall not result in
4 13 the person being detained in a secure facility.

4 14 DIVISION III

4 15 INTERCEPTION OF COMMUNICATIONS

4 16 Sec. 7. Section 808B.1, subsection 4, Code 2009, is
4 17 amended by adding the following new paragraph:

4 18 NEW PARAGRAPH. d. Electronic funds transfer information
4 19 stored by a financial institution in a communication system
4 20 used for the electronic storage and transfer of funds.

4 21 Sec. 8. Section 808B.1, subsection 8, Code 2009, is
4 22 amended to read as follows:

4 23 8. "Oral communication" means an oral communication
4 24 uttered by a person exhibiting an expectation that the

4 25 communication is not subject to interception, under
4 26 circumstances justifying that expectation. An "oral
4 27 communication" does not include an electronic communication.
4 28 Sec. 9. Section 808B.1, subsections 9, 11, and 12, Code
4 29 2009, are amended by striking the subsections and inserting in
4 30 lieu thereof the following:
4 31 9. "Pen register" means a device or process which records
4 32 or decodes dialing, routing, addressing, or signaling
4 33 information, but not the contents of the communication,
4 34 transmitted by an instrument or facility from which a wire or
4 35 electronic communication is transmitted. "Pen register" does
5 1 not include any device or process used by a provider or
5 2 customer of a wire or electronic communication service for
5 3 billing, or recording as an incident to billing, for
5 4 communications services provided by such provider or any
5 5 device or process used by a provider or customer of a wire
5 6 communication service for cost accounting or other like
5 7 purposes in the ordinary course of its business.
5 8 11. "Trap and trace device" means a device or process
5 9 which captures the incoming electronic or other impulses which
5 10 identify the originating number or other dialing, routing,
5 11 addressing, and signaling information reasonably likely to
5 12 identify the source of a wire or electronic communication, but
5 13 does not capture the contents of any communication.
5 14 12. "Wire communication" means any aural transfer made in
5 15 whole or in part through the use of facilities for the
5 16 transmission of communications by the aid of wire, cable, or
5 17 other like connection between the point of origin and the
5 18 point of reception, including the use of such connection in a
5 19 switching station, furnished or operated by any person engaged
5 20 in providing or operating such facilities for the transmission
5 21 of interstate or foreign communications or communications
5 22 affecting interstate or foreign commerce.
5 23 Sec. 10. Section 808B.3, Code 2009, is amended by adding
5 24 the following new subsections:
5 25 NEW SUBSECTION. 3. A felony offense involving ongoing
5 26 criminal conduct in violation of chapter 706A.
5 27 NEW SUBSECTION. 4. A forcible felony as defined in
5 28 section 702.11.
5 29 NEW SUBSECTION. 5. A felony fugitive warrant issued in
5 30 the state or involving an individual who is reasonably
5 31 believed to be located within the state.
5 32 Sec. 11. Section 808B.5, Code 2009, is amended by adding
5 33 the following new subsections:
5 34 NEW SUBSECTION. 11A. A special state agent may make
5 35 application to a judicial officer for the issuance of a search
6 1 warrant to authorize the placement, tracking, or monitoring of
6 2 a global positioning device, supported by a peace officer's
6 3 oath or affirmation, which includes facts, information, and
6 4 circumstances tending to establish sufficient grounds for
6 5 granting the special state agent's application, and probable
6 6 cause for believing the grounds exist. Upon a finding of
6 7 probable cause to issue such a warrant, the judicial officer
6 8 shall issue a warrant, signed by the judicial officer with the
6 9 judicial officer's name of office, directed to any peace
6 10 officer, commanding that the peace officer place, track, or
6 11 monitor the global positioning device.
6 12 NEW SUBSECTION. 11B. Upon the request of an investigative
6 13 or law enforcement officer, a judge may issue a subpoena or
6 14 other court order in order to obtain information and
6 15 supporting documentation regarding contemporaneous or
6 16 prospective wire or electronic communications based upon a
6 17 finding that a prosecuting attorney is engaged in a criminal
6 18 investigation of an offense listed in section 808B.3.
6 19 NEW SUBSECTION. 11C. Notwithstanding any other provision
6 20 of law, upon the request of an investigative or law
6 21 enforcement officer, a judge may authorize the capture of a
6 22 wire or oral communication by a pen register or trap and trace
6 23 device, if a judge finds that there is probable cause to
6 24 believe that a wire or oral communication relevant to a valid
6 25 search warrant will occur at any point while the warrant is in
6 26 effect.
6 27 Sec. 12. Section 808B.10, unnumbered paragraph 1, Code
6 28 2009, is amended to read as follows:
6 29 A Except for emergency situations pursuant to section
6 30 808B.12, a person shall not install or use a pen register or a
6 31 trap and trace device without first obtaining a search warrant
6 32 or court order pursuant to either section 808B.11 or 808B.12.
6 33 However, a pen register or a trap and trace device may be used
6 34 or installed without court order if any of the following
6 35 apply:

7 1 Sec. 13. Section 808B.11, subsection 3, paragraph c, Code
7 2 2009, is amended to read as follows:

7 3 c. The telephone number if known, ~~and~~ the physical
7 4 location of the telephone line where the pen register or trap
7 5 and trace device will be attached, the method for determining
7 6 the location of the electronic communication, and the
7 7 geographic limits of the trap and trace device.

7 8 Sec. 14. Section 808B.12, Code 2009, is amended by
7 9 striking the section and inserting in lieu thereof the
7 10 following:

7 11 808B.12 EMERGENCY INSTALLATION AND USE == SUBSEQUENT
7 12 APPLICATION AND ORDER.

7 13 1. Notwithstanding any other provision of this chapter, a
7 14 special state agent authorized by the prosecuting attorney or
7 15 an assistant attorney general who reasonably determines that
7 16 an emergency situation described in subsection 2 exists which
7 17 requires the installation and use of a pen register or a trap
7 18 and trace device before an order authorizing such installation
7 19 and use can be obtained with due diligence, may install and
7 20 use a pen register or trap and trace device, if an order
7 21 approving the installation or use is applied for and issued in
7 22 accordance with section 808B.11 within forty-eight hours of
7 23 the installation.

7 24 2. Subsection 1 applies in the following emergency
7 25 situations:

7 26 a. Immediate danger of death or serious bodily injury to a
7 27 person.

7 28 b. Conspiratorial activities characteristic of organized
7 29 crime.

7 30 c. Immediate threat to a national security interest.

7 31 d. Ongoing attack on a computer that constitutes a crime
7 32 punishable by a term of imprisonment greater than one year.

7 33 3. In the absence of an authorizing order, such use shall
7 34 immediately terminate when the information sought is obtained,
7 35 when the application for the order is denied, or when

8 1 forty-eight hours have lapsed since the installation of the
8 2 pen register or trap and trace device, whichever is earlier.

8 3 4. The knowing installation or use by any investigative or
8 4 law enforcement officer of a pen register or trap and trace
8 5 device pursuant to subsection 1 without application for the
8 6 authorizing order within forty-eight hours of the installation
8 7 constitutes a serious misdemeanor.

8 8 5. A provider of a wire or electronic communication
8 9 service, landlord, custodian, or other person who furnishes
8 10 facilities or technical assistance pursuant to this section
8 11 shall be reasonably compensated for such reasonable expenses
8 12 incurred in providing such facilities and assistance.

8 13 Sec. 15. Section 808B.13, subsections 4 and 5, Code 2009,
8 14 are amended to read as follows:

8 15 4. A cause of action shall not lie in any court against
8 16 any provider of a wire or electronic communication service,
8 17 its officers, employees, agents, or other specified persons
8 18 for providing information, facilities, or assistance in
8 19 accordance with the terms of a search warrant or court order
8 20 under section 808B.11 or 808B.12.

8 21 5. A good faith reliance on a search warrant or court
8 22 order under section 808B.11 or 808B.12 is a complete defense
8 23 against any civil or criminal action brought under this
8 24 chapter or any other statute.

8 25 DIVISION IV

8 26 PEACE OFFICER SERVING AS FEDERAL ACTOR

8 27 Sec. 16. Section 80.9A, Code 2009, is amended by adding
8 28 the following new subsection:

8 29 NEW SUBSECTION. 8. a. A peace officer of the department,
8 30 when authorized by the commissioner, may act in concert with,
8 31 under the direction of, or otherwise serve as a state actor
8 32 for an officer or agent of the federal government.

8 33 b. If serving as a state actor for an officer or agent of
8 34 the federal government as provided in paragraph "a", the peace
8 35 officer shall be considered acting within the scope of the
9 1 employee's office or employment as defined in section 669.2,
9 2 subsection 1.

9 3 EXPLANATION

9 4 This bill relates to practices and procedures of the
9 5 department of public safety including school inspections,
9 6 gaming floor or wagering area restrictions, public
9 7 intoxication testing, operating while intoxicated testing,
9 8 interception of communications, and peace officers acting with
9 9 federal agents.

9 10 DIVISION I. The division provides that the state fire
9 11 marshal shall inspect a public or private school every four

9 12 years to determine whether the school meets fire safety
9 13 standards. Current law requires an inspection every two
9 14 years.

9 15 The division requires each public or private school,
9 16 college, or university, to perform a basic fire safety review
9 17 of each building that is occupied or utilized by students and
9 18 is owned, leased, or otherwise under the control of the
9 19 school, college, or university.

9 20 DIVISION II. The division prohibits a person under 21
9 21 years of age from entering or attempting to enter the gaming
9 22 floor or wagering area of a facility licensed under Code
9 23 chapter 99D to operate gambling games.

9 24 A person under 21 years of age does not violate the
9 25 prohibition if the person is employed at the gambling
9 26 facility, is an employee or agent acting within the person's
9 27 scope of employment by the state racing and gaming commission,
9 28 division of criminal investigation of the department of public
9 29 safety, a distributor, or a manufacturer, or the person is
9 30 present in a racetrack enclosure and does not enter or attempt
9 31 to enter the gaming floor or wagering area of the facility.

9 32 A person who violates the prohibition commits a simple
9 33 misdemeanor punishable by a scheduled fine of \$500.

9 34 DIVISION III. The division makes changes to Code chapter
9 35 808B (interception of communications).

10 1 The division excludes electronic funds transfer information
10 2 from the definition of "electronic communication".

10 3 The division specifies that an "oral communication" does
10 4 not include an "electronic communication".

10 5 The division modifies the definitions for "pen register",
10 6 "trap and trace device", and "wire communication".

10 7 The division expands the list of criminal investigations
10 8 for which the interception of communications may be authorized
10 9 to include ongoing criminal conduct (Code chapter 706A), a
10 10 forcible felony (Code section 702.11), or a felony fugitive
10 11 warrant for persons reasonably believed to be in this state.

10 12 Current law permits the interception of communications in
10 13 criminal investigations for a felony offense involving dealing
10 14 in a controlled substance or a felony offense involving money
10 15 laundering.

10 16 The division provides that, upon application of a special
10 17 state agent of the department of public safety, a judge shall
10 18 issue a search warrant which authorizes the placement,
10 19 tracking, or monitoring of a global positioning device if the
10 20 application contains sufficient grounds for granting the
10 21 application, and upon a finding of probable cause for
10 22 believing the grounds exist.

10 23 The division provides that a judge may issue a subpoena or
10 24 other court order in order to obtain information and
10 25 supporting documentation regarding contemporaneous or
10 26 prospective wire or electronic communications based upon a
10 27 finding that a prosecuting attorney is engaged in a criminal
10 28 investigation of an offense listed in Code section 808B.3.

10 29 The division also provides that a judge may authorize the
10 30 capture of a wire or oral communication by a pen register or
10 31 trap and trace device, if a judge finds that there is probable
10 32 cause to believe that a wire or oral communication relevant to
10 33 a valid search warrant will occur at any point while the
10 34 warrant is in effect.

10 35 The division specifies that an order authorizing the
11 1 interception of a communication shall refer to the method for
11 2 determining the location of the electronic communication
11 3 intercepted in addition to other requirements specified in
11 4 Code section 808B.11(3).

11 5 The division permits a special agent or an assistant
11 6 attorney general who determines that an emergency situation
11 7 exists which requires the installation and use of a pen
11 8 register or a trap and trace device before an order
11 9 authorizing such installation and use can be obtained with due
11 10 diligence, to install and use a pen register or trap and trace
11 11 device if an order approving the installation or use is issued
11 12 within 48 hours of the installation occurring.

11 13 The division limits such emergency situations to those
11 14 involving death or serious bodily injury, conspiratorial
11 15 activities characteristic of organized crime, immediate
11 16 threats to national security, or ongoing attack on a computer
11 17 that constitutes a crime punishable by a term of imprisonment
11 18 greater than one year.

11 19 DIVISION IV. The division authorizes a peace officer of
11 20 the department of public safety to act in concert with, or
11 21 under the direction of, a federal officer or agent of the
11 22 federal government.

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